AMENDED IN SENATE MAY 27, 2014 AMENDED IN SENATE APRIL 2, 2014 AMENDED IN SENATE MARCH 18, 2014

SENATE BILL

No. 892

Introduced by Senator Hancock (Coauthors: Senators De León, Lara, Leno, and Steinberg) (Coauthors: Assembly Members Ammiano and Skinner)

January 13, 2014

An act to amend Section 12838.1 of the Government Code, and to amend Sections 2932, 2933.6, and 6126 of, and to add Article 7 (commencing with Section 2696) to Chapter 4 of Title 1 of Part 3 of, the Penal Code, relating to state prisons.

LEGISLATIVE COUNSEL'S DIGEST

SB 892, as amended, Hancock. State prisons.

Existing law establishes the Department of Corrections and Rehabilitation to oversee the state prison system. Existing law authorizes the Governor to appoint 4 officers, subject to Senate approval, to the Division of Adult Institutions within the Department of Corrections and Rehabilitation, to oversee specified categories of adult institutions.

This bill would authorize an additional officer appointment by the Governor, to oversee the security threat group validation and Security Housing Unit operations and conditions within that division.

Existing law authorizes Security Housing Units for segregation of certain prisoners for disciplinary or security purposes, and because of gang membership or association.

This bill would require specified due process procedures for determining if an inmate is a member of or an associate of a gang, and

 $SB 892 \qquad \qquad -2-$

subject to placement in a Security Housing Unit. The bill would require the Office of the Inspector General, commencing July 1, 2015, to review every determination completed on or after July 1, 2015, prior to the offender being placed in a Security Housing Unit, and in which confidential information was used, that an inmate is a gang member or associate, to determine whether the minimum level of due process was provided and that the determination was supported by the evidence. If the Inspector General concludes that the determination was not supported by the evidence, or that the inmate was not provided the minimum level of due process, the gang member or associate classification would be deleted and the inmate would not be placed in a Security Housing Unit.

The bill would require an inmate subject to an indeterminate Security Housing Unit term to be placed in a multistep program designed to promote positive behavior and cessation of gang-related activities, and promotion of successful assimilation of the inmate back into the general prison population. The bill would require the Inspector General, on or before July 1, 2016, to review the central files of each inmate who is subject to an indeterminate Security Housing Unit term who is denied progression within the program to assess the department's compliance with the program.

The bill would require an inmate subject to a determinate Security Housing Unit term to receive an individualized plan to address the conduct giving rise to the term in the Security Housing Unit, and to promote successful assimilation back into the general prison population. The bill would authorize an inmate serving a determinate Security Housing Unit term to earn credits toward reducing that term.

The bill would require the Inspector General, commencing July 1, 2016, and annually thereafter, to provide an audit report to the Governor and the Legislature of inmates subject to a determinate term in a Security Housing Unit to assess compliance by the department.

The bill would require an inmate in a Security Housing Unit or Psychiatric Services Unit to have access to educational programming, to have daily weekly face-to-face interaction with uniformed and civilian staff, to have access to radio or television, and the opportunity to earn additional specified privileges and credits towards reduction of the inmate's sentence. The bill would require the Inspector General, on or before July 1, 2016, and biennially thereafter, to perform an audit to assess the department's compliance with these provisions.

3 SB 892

The bill would require mental health screening for an inmate placed in the Security Housing Unit and subsequent mental health assessments, as specified. The bill would require the Inspector General, on or before July 1, 2016, and biennially thereafter, to perform an audit to assess the department's compliance with these provisions. The bill would require the department to employ 2-ombudsman ombudsmen to act as offender resource specialists at each institution that has a Security Housing Unit and or Psychiatric Services Unit, to be responsible for, among other things, assisting an inmate with concerns about the inmate's responsibilities and rights during confinement in one of those units, and responding to an inmate's family member's inquiries. The bill would require the Inspector General to employ 2 secured housing specialists for each institution that has a Security Housing Unit-and or Psychiatric Services Unit to monitor the programming and conditions of those security housing units.

The bill would require the department, commencing July 1, 2015, to collect specified data regarding inmates subject to a term in a Security Housing Unit. The bill would require the Inspector General, commencing January 1, 2017, and biennially thereafter, to use the data to prepare reports for the Legislature on specified criteria pertaining to inmates in a Security Housing Unit and a Psychiatric Services Unit.

Existing law provides that an inmate placed in a Security Housing Unit for specified crimes or because of gang association or membership, or placed in a Psychiatric Services Unit, is ineligible to earn credits towards reducing his or her sentence during the time the inmate is in the Security Housing Unit.

This bill would provide that those inmates would be eligible to earn credits toward reducing their sentences while in a Security Housing Unit or Psychiatric Services Unit for a period during which the inmate has been free of disciplinary action for 6 consecutive months.

The bill would state findings and declarations by the Legislature relative to Security Housing Units and would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

SB 892 —4—

(a) Prisons serve a vital role in California's public safety and criminal justice system. The prison system also is an increasingly expensive government program.

- (b) The mission of the Department of Corrections and Rehabilitation is to enhance public safety through safe and secure incarceration of the most serious and violent offenders, and to provide effective parole supervision and rehabilitative strategies for the successful reintegration of offenders into our communities.
- (c) The criminal justice system must be transparent and include performance measures that hold it accountable for its results in protecting the public, reducing reoffending, and conserving taxpayers' money.
- (d) Currently, California places an offender in a setting isolated from the general prison population solely because the offender is a gang member. An offender is labeled a gang member or gang associate through a process that is completely internal within the department and that is not subject to any systematic independent oversight.
- (e) An offender in the Security Housing Unit is locked in a cell for up to 23 hours a day. These offenders are typically given minimal outdoor time alone in small, separately secured yards, and eat their meals in their cells. An offender in a Security Housing Unit cannot make telephone calls and has very limited access to family member visits.
- (f) As of February 27, 2014, there were 2,483 offenders serving indeterminate terms in the Security Housing Unit and 1,466 offenders serving determinate terms in the Security Housing Unit in California state prisons.
- (g) As of February 27, 2014, there were 39 offenders who had been in the Security Housing Unit for more than 25 years, and 46 offenders who had been in the Security Housing Unit for more than 20 years. According to the department, the average time an offender spends in the Security Housing Unit is 6.8 years.
- (h) Mental health professionals and researchers have found that offenders in solitary confinement, especially for an extended time, suffer from a number of psychological and psychiatric illnesses. Those illnesses include aggression, chronic insomnia, anxiety, panic attacks, extreme paranoia, and an offender often exhibits the signs and symptoms of psychosis, including hallucinations.

—5— SB 892

(i) Between September 2012 and September 2013, 273 offenders were paroled directly into our communities from the Security Housing Unit.

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- (i) Long-term segregated housing as a prison management strategy should be used only as a last resort and should be limited in duration. The conditions of confinement should include evidence-based programs designed to return the offender to the general prison population.
- SEC. 2. Section 12838.1 of the Government Code is amended to read:
- 12838.1. (a) There is hereby created within the Department of Corrections and Rehabilitation, under the Undersecretary for Administration and Offender Services, the following divisions:
- (1) The Division of Enterprise Information Services, the Division of Facility Planning, Construction, and Management, and the Division of Administrative Services. Each division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.
- (2) The Division of Internal Oversight and Research. This division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, who shall serve at the pleasure of the Governor.
- (b) There is hereby created in the Department of Corrections and Rehabilitation, under the Undersecretary for Health Care Services, the Division of Health Care Operations and the Division of Health Care Policy and Administration. Each division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.
- (c) There is hereby created within the Department of Corrections and Rehabilitation, under the Undersecretary for Operations, the Division of Adult Institutions, the Division of Adult Parole Operations, the Division of Juvenile Justice, and the Division of Rehabilitative Programs. Each division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation,
- 38 who shall serve at the pleasure of the Governor.
 - (d) The Governor shall, upon recommendation of the secretary, appoint five subordinate officers to the Division of Adult

 $SB 892 \qquad \qquad -6-$

Institutions, subject to Senate confirmation, who shall serve at the pleasure of the Governor. Each subordinate officer appointed pursuant to this subdivision shall oversee an identified category of adult institutions, one of which shall be female offender facilities, and one that shall oversee security threat group validation and Security Housing Unit operations and conditions, as described in Article 7 (commencing with Section 2696) of Chapter 4 of Title 1 of Part 3 of the Penal Code.

- (e) (1) Unless the context clearly requires otherwise, whenever the term "Chief Deputy Secretary for Adult Operations" appears in any statute, regulation, or contract, it shall be construed to refer to the Director of the Division of Adult Institutions.
- (2) Unless the context clearly requires otherwise, whenever the term "Chief Deputy Secretary for Adult Programs" appears in any statute, regulation, or contract, it shall be construed to refer to the Director of the Division of Rehabilitative Programs.
- (3) Unless the context clearly requires otherwise, whenever the term "Chief Deputy Secretary for Juvenile Justice" appears in any statute, regulation, or contract, it shall be construed to refer to the Director of the Division of Juvenile Justice.
- SEC. 3. Article 7 (commencing with Section 2696) is added to Chapter 4 of Title 1 of Part 3 of the Penal Code, to read:

Article 7. The Security Housing Unit

2696. (a) The terms below, as used in this article, are defined as follows:

(a)

(1) "Custody" means the offender is in the physical custody of the Department of Corrections and Rehabilitation.

(b)

(2) "Determinate Security Housing Unit term" means the offender is placed in the Security Housing Unit for a determinate period of time because the offender was found guilty of a serious offense, as described in the department's regulations.

(e)

(3) "Indeterminate Security Housing Unit term" means that an offender is assigned to the Security Housing Unit for an indeterminate period. These offenders include security threat group affiliates and offenders in protective custody.

7 SB 892

(d)

(4) "Psychiatric Services Unit" means a facility designed and staffed to treat mentally disordered offenders who are serving terms in the Security Housing Unit. There are three Psychiatric Services Units in the state prison system located in Pelican Bay State Prison, California State Prison, Sacramento, and California Institution for Women.

(e)

(5) "Security Housing Unit" means housing for an offender who is a difficult management ease, a security threat group member, or a maximum security offender has the meaning assigned in the department's regulations. There are four Security Housing Units in the state prison system located in Pelican Bay State Prison, California State Prison, Corcoran, California Institution for Women, and California Correctional Institution.

(f)

(6) "Security threat group," which is used synonymously with the term "gang," means any ongoing formal or informal organization, association, or group of three or more persons that has a common name or identifying sign or symbol whose members and associates, individually or collectively, engage or have engaged on behalf of that organization, association, or group, in two or more acts that include planning, organizing, threatening, financing, soliciting, or committing unlawful acts or misconduct has the meaning assigned in the department's regulations.

(g)

(7) "Security threat group affiliate" means an offender who has been validated as either a member or associate of a security threat group has the meaning assigned in the department's regulations.

30 (h)

- (8) "Security threat group validation" means the process used by the department to identify and document an offender affiliated with a security threat group.
- (b) This article does not require the department to validate an offender as an affiliate of a security threat group.
- 2696.5. (a) The In any case in which the department seeks to validate an offender as a security group affiliate, the department shall provide an offender due process prior to validating an offender in its custody as a security threat group affiliate. An offender shall be afforded, at a minimum, the following procedural protections:

-8-SB 892

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(1) Timely, written, and effective notice that security threat group validation is being considered, and the facts upon which that consideration is based.

- (2) Decisionmaking by a dedicated and specially trained classification committee.
- (3) A hearing at which the offender may be heard in person and, absent an individualized determination of good cause, has a reasonable opportunity to present available witnesses and information.
- (4) An interpreter, if necessary, for the offender to understand or participate in the proceedings.
 - (5) An advocate to assist with the offender's investigation.
- (6) An independent determination by the committee of the reliability and credibility of confidential informants. Information supplied by an informant shall only be considered by the committee if there is a finding, based on additional evidence, that the informant has personal and actual knowledge of the information he or she has provided.
- (7) A written statement in plain language setting forth the specific evidence relied upon, and the reasons for, validation.
- (b) Commencing July 1, 2015, the Office of the Inspector General shall, prior to placement of an offender in a Security Housing Unit, review every security threat group validation completed on or after July 1, 2015, in which confidential information was used, to determine whether the minimum level of due process was provided to the validated offender and that the validation was supported by the evidence. If the Office of Inspector General concludes that the security threat group validation was not supported by the evidence or that the offender was not provided the minimum level of due process, the offender's gang validation shall be deleted and the offender shall not be placed in the Security Housing Unit.
- 2697. (a) Commencing on January 1, 2015, an offender who is serving an indeterminate Security Housing Unit term, and thereafter, an offender placed in the Security Housing Unit, shall be placed in the Step Down Program. Offenders who were placed in the Security Housing Unit prior to January 1, 2015, shall be placed in the Step Down Program by the department's designated review board no later than July 1, 2016. The Step Down Program is a multistep program designed to provide programming with the

-9- SB 892

ultimate goal of returning the offender to the general prison population. The goal of the Step Down Program shall be to return prisoners to the general population as rapidly as possible, consistent with the safety and security of institutions of the department *and* shall not consist of more than five steps. It shall operate on the presumption that every prisoner who enters the Step Down Program can complete it in a timely manner.

- (b) Within 30 days of an offender being placed into the Step Down Program, and by July 1, 2015, for all offenders who began serving an indeterminate security housing unit Security Housing Unit term prior to January 1, 2015, the department shall develop an individualized plan for the offender. The plan shall include, but not be limited to, an assessment of the offender's needs, an individualized strategy to provide the offender with programming to address those needs, and a statement of the expectations for the offender to progress through the Step Down Program. The department shall provide the plan to the offender and explain it so that the offender can understand his or her responsibilities under the plan. A copy of the plan shall be placed in the offender's central file.
- (c) An offender in the Step Down Program shall be provided with promising or evidence-based programming—designed to eliminate participation in security threat group-related activities. The programming shall include incentives to promote positive behavior. The programming shall also promote the successful assimilation of an offender back into the general prison population. Information obtained from the offender during this programming shall not be used in a rules violation report against the offender or to keep the offender in the Security Housing Unit.
- (d) The department shall track the offender's progress in meeting the requirements of the plan described in subdivision (b).
- (e) An offender in the Step Down Program shall be assessed by a correctional counselor every 90 days, in order to monitor the offender's progress. The correctional counselor and the offender resource specialist shall meet with the offender and provide the offender with a progress report that outlines what requirements the offender is not meeting and what the offender is expected to do to progress within the Step Down Program. An interpreter shall be provided, if necessary, so that the offender can understand and

SB 892 — 10 —

participate in the assessment. A copy of the report shall be placed in the offender's central file.

- (f) An offender shall have the opportunity to advance to the next step of the Step Down Program after successful participation in the current step for 180 days.
- (g) The department shall prepare a comprehensive reentry plan for every offender who will parole directly out of the Security Housing Unit or the Psychiatric Services Unit into the community.
- (h) On or before July 1, 2016, and continually thereafter, the Office of the Inspector General shall review the central file of each offender who is denied progress within the Step Down Program to assess the department's compliance with this section.
- 2697.5. (a) Within 30 days of an offender beginning a determinate Security Housing Unit term, and by July 1, 2015, for all offenders who began serving a determinate Security Housing Unit term prior to January 1, 2015, the department shall develop an individualized plan for the offender. The plan shall include an assessment of the offender's needs, an individualized strategy to provide the offender with programming to address those needs, and a statement of the expectations for the offender to progress toward fewer restrictions and lower levels of custody based on the offender's behavior. The department shall provide the plan to the offender and explain it, so that the offender can understand those expectations. A copy of the plan shall be placed in the offender's central file.
- (b) An offender serving a determinate Security Housing Unit term shall be provided with promising or evidence-based programming-consistent with addressing the conduct giving rise to the offender's determinate Security Housing Unit term. The programming shall promote the successful assimilation of the offender back into the general prison population. Information obtained from the offender during the programming shall not be used in a rules violation report against the offender, or to keep the offender in the Security Housing Unit.
- (c) The department shall track the offender's progress in meeting the requirements of the plan described in subdivision (a).
- (d) An offender serving a determinate Security Housing Unit term shall be assessed by a correctional counselor every 90 days, in order to monitor the offender's progress. The correctional counselor and the offender resource specialist shall meet with the

-11- SB 892

offender and provide the offender with a progress report that outlines what requirements the offender is not meeting and what the offender is expected to do to be eligible for additional privileges and early release from the Security Housing Unit. An interpreter shall be provided, if necessary, so that the offender can understand and participate in the assessment. A copy of the report shall be placed in the offender's central file.

- (e) An offender serving a determinate Security Housing Unit term shall be eligible to earn credits towards early release from the Security Housing Unit. The department shall be responsible for developing guidelines for earning those credits.
- (f) The department shall prepare a comprehensive reentry plan for every offender who will parole directly out of the Security Housing Unit or Psychiatric Services Unit into the community.
- (g) (1) Commencing on July 1, 2016, and annually thereafter, the Inspector General shall provide an audit report to the Governor and the Legislature of the offenders serving a determinate Security Housing Unit term to assess the department's compliance with this section.
- (2) The report required by paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.
- 2698. (a) An offender placed in the Security Housing Unit or the Psychiatric Services Unit shall be provided with meaningful forms of mental, physical, and social stimulation. Those forms of stimulation shall include, but not be limited to, the following:
- (1) Access to educational programming, including in-cell programming, that shall be developed for an offender who is not permitted to leave his or her cell.
- (2) Opportunities to exercise in the presence of other offenders, provided however, that the offenders may be separated by security barriers, if necessary.
- (3) Daily Weekly face-to-face interaction with both uniformed and civilian staff or volunteers.
 - (4) Access to radio or television.
- (b) The department shall create a behavior-driven progressive incentives program that includes, but is not limited to, the following, for any 30-day period where an offender in the Security Housing Unit or Psychiatric Services Unit does not receive a rules violation report:
 - (1) One additional phone call in the following month.

SB 892 — 12 —

 (2) One additional photograph, for a maximum of 10.

- (3) Four additional hours of recreational yard time in the following month.
- (c) An offender shall be entitled to the privileges in subdivision (b) if a disciplinary action is reversed, dismissed, or modified to a minor rules violation.
- (d) An offender is eligible to earn credits pursuant to Section 2933 or 2933.05 during the time that he or she is in the Security Housing Unit or the Psychiatric Services Unit as provided in Section 2933.6.
- (e) On or before July 1, 2016, and biennially thereafter, the Office of the Inspector General shall perform an audit to assess the department's compliance with this section.
- 2698.5. (a) (1) An offender shall undergo a mental health screening by a qualified mental health professional within 30 days before beginning a term in the Security Housing Unit. An offender who has been diagnosed with a serious mental illness or who has a history of serious mental illness and decompensation in segregated settings shall not be placed in the Security Housing Unit.
- (2) All offenders segregated in a Security Housing Unit as of January 1, 2015, shall undergo a mental health assessment by a qualified mental health professional by March 31, 2015. Prisoners found to be suffering from a serious mental illness shall be removed from the Security Housing Unit.
- (b) The mental health of an offender in the Security Housing Unit or Psychiatric Services Unit shall be monitored as follows:
- (1) Correctional staff shall maintain a daily log documenting the offender's behavior.
- (2) A qualified mental health professional shall, at least weekly, conduct rounds in the Security Housing Unit and the Psychiatric Services Unit, speak to unit staff about any unusual behavior or signs of psychological distress or vulnerability of any prisoner in the unit, monitor the psychological condition of all prisoners in the unit, review the offender log, and observe and speak to offenders who are receiving mental health treatment.
- (3) A qualified mental health professional shall perform a comprehensive mental health assessment of an offender in the Security Housing Unit or the Psychiatric Services Unit every 90 days, unless a qualified mental health professional determines that

__13__ SB 892

the assessment is unnecessary based on observations made pursuant to paragraphs (1) and (2), except that every offender in the Security Housing Unit or the Psychiatric Services Unit shall be given a comprehensive mental health assessment on at least an annual basis.

- (c) The department shall provide training to all correctional staff in the Security Housing Unit and Psychiatric Services Unit on how to respond to an individual experiencing a psychiatric crisis in ways that reduce rather than escalate the crisis.
- (d) On or before July 1, 2016, and biennially thereafter, the Office of the Inspector General shall perform an audit to assess the department's compliance with this section.
- 2699. The department shall employ two—ombudsman ombudsmen to act as offender resource specialists for each institution that has a Security Housing Unit—and or Psychiatric Services Unit. The offender resource specialist's responsibilities shall include, but not be limited to, the following:
- (a) Assisting an offender with concerns and questions concerning the offender's responsibilities and rights during confinement in the Security Housing Unit or Psychiatric Services Unit.
 - (b) Responding to inquiries from an offender's family members.
- (c) Explaining Security Housing Unit and Psychiatric Services Unit policies to the public.
- 2699.5. (a) Commencing July 1, 2015, the department shall collect the following data:
- (1) Information relating to each offender who is going through, or has gone through, the validation process for determining a security threat group affiliate, including the following:
 - (A) The offender's gender, age, mental health status, and race.
 - (B) The outcome at every step of the validation process.
 - (C) If the offender was validated, the date of validation.
- (D) If the offender was validated, the level of validation that the offender was assigned.
- (2) Information relating to the offender being housed in the Security Housing Unit or Psychiatric Services Unit, including the following:
 - (A) The offender's gender, age, mental health status, and race.
- 38 (B) The date the offender was placed in the Security Housing 39 Unit or Psychiatric Services Unit and the date of release.

SB 892 — 14—

1 (C) The reason the offender is serving a Security Housing Unit 2 term.

- (D) If the offender is serving an indeterminate Security Housing Unit term, the progress the offender has made in the Step Down Program.
- (E) For offenders in the Step Down Program, the time spent in each step of the program.
- (F) The number of visits from persons other than staff that the offender was provided while serving a term in the Security Housing Unit or Psychiatric Services Unit.
- (G) The number of telephone calls the offender was provided while serving a term in the Security Housing Unit.
- (H) Whether the offender attempted to commit or committed suicide.
- (I) Any disciplinary action taken against the offender, and the result of that action.
- (J) Whether the offender was paroled directly out of the Security Housing Unit or the Psychiatric Services Unit into the community.
- (3) The number of administrative appeals filed by offenders in the Security Housing Unit or Psychiatric Services Unit, the subject matter of the appeals, and the outcome of the appeals.
- (b) Commencing January 1, 2017, and biennially thereafter, the Office of the Inspector General shall use the data described in subdivision (a) to prepare a report to the Legislature that includes, but is not limited to, the following information:
- (1) The number of offenders investigated for security threat group validation and the number of investigations that resulted in a validation.
- (2) The number of cases in which the Office of Correctional Safety recommended against validation and the outcome of those cases.
- (3) The number of cases in which the security threat group committee decided not to validate the offender.
- (4) The number of offenders who were not initially placed in the Security Housing Unit or Psychiatric Services Unit but were sent to the Security Housing Unit or Psychiatric Services Unit within six months of validation.
- 38 (5) The number of offenders placed for an indeterminate 39 Security Housing Unit term or in the Psychiatric Services Unit.

__15__ SB 892

(6) The number of offenders placed for a determinate Security Housing Unit term or in the Psychiatric Services Unit.

- (7) The average length of time offenders serving an indeterminate Security Housing Unit term spent in the Security Housing Unit or the Psychiatric Services Unit, or both.
- (8) The average length of time offenders spent in each step of the Step Down Program.
- (9) The number of suicide attempts made by offenders in the Security Housing Unit and the Psychiatric Services Unit.
- (10) The number of suicides by offenders in the Security Housing Unit and the Psychiatric Services Unit.
- (11) The number of offenders in the Security Housing Unit and the Psychiatric Services Unit who were paroled directly out of the Security Housing Unit and the Psychiatric Services Unit into the community.
- (12) The number of disciplinary actions taken against offenders in the Security Housing Unit and the Psychiatric Services Unit, the type of actions, and the outcomes of the disciplinary actions.
- (13) The number of visits by persons other than staff to offenders in the Security Housing Unit and the Psychiatric Services Unit.
- (14) The number of telephone calls provided to offenders in the Security Housing Unit and the Psychiatric Services Unit.
- (15) The number of administrative appeals filed by offenders in the Security Housing Unit or the Psychiatric Services Unit, the subject matter of the appeals, and the outcomes of those appeals.
- (c) The report required by subdivision (b) shall be submitted in compliance with Section 9795 of the Government Code.
 - SEC. 4. Section 2932 of the Penal Code is amended to read:
- 2932. (a) (1) For any time credit accumulated pursuant to Section 2931 or 2933, not more than 360 days of credit may be denied or lost for a single act of murder, attempted murder, solicitation of murder, manslaughter, rape, sodomy, or oral copulation accomplished against the victim's will, attempted rape, attempted sodomy, or attempted oral copulation accomplished against the victim's will, assault or battery causing serious bodily injury, assault with a deadly weapon or caustic substance, taking of a hostage, escape with force or violence, or possession or manufacture of a deadly weapon or explosive device, whether or not prosecution is undertaken for purposes of this paragraph.

SB 892 -16 -

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Solicitation of murder shall be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.

- (2) Not more than 180 days of credit may be denied or lost for a single act of misconduct, except as specified in paragraph (1), which could be prosecuted as a felony whether or not prosecution is undertaken.
- (3) Not more than 90 days of credit may be denied or lost for a single act of misconduct which could be prosecuted as a misdemeanor, whether or not prosecution is undertaken.
- (4) Not more than 30 days of credit may be denied or lost for a single act of misconduct defined by regulation as a serious disciplinary offense by the Department of Corrections and Rehabilitation. Any person confined due to a change in custodial classification following the commission of any serious disciplinary infraction shall, in addition to any loss of time credits, be ineligible to receive participation or worktime credit for a period not to exceed the number of days of credit which have been lost for the act of misconduct or 180 days, whichever is less. Any person confined in a Security Housing Unit for having committed any misconduct specified in paragraph (1) in which great bodily injury is inflicted upon a nonprisoner shall, in addition to any loss of time credits, be ineligible to receive participation or worktime credit for a period not to exceed the number of days of credit which have been lost for that act of misconduct. In unusual cases, an inmate may be denied the opportunity to participate in a credit qualifying assignment for up to six months beyond the period specified in this subdivision if the Secretary of the Department of Corrections and Rehabilitation finds, after a hearing, that no credit qualifying program may be assigned to the inmate without creating a substantial risk of physical harm to staff or other inmates. At the end of the six-month period and of successive six-month periods, the denial of the opportunity to participate in a credit qualifying assignment may be renewed upon a hearing and finding by the director.
- (5) The prisoner may appeal the decision through the department's review procedure, which shall include a review by an individual independent of the institution who has supervisorial authority over the institution.
- (b) For any credit accumulated pursuant to Section 2931, not more than 30 days of participation credit may be denied or lost for

__17__ SB 892

a single failure or refusal to participate. Any act of misconduct described by the Department of Corrections and Rehabilitation as a serious disciplinary infraction if committed while participating in work, educational, vocational, therapeutic, or other prison activity shall be deemed a failure to participate.

- (c) Any procedure not provided for by this section, but necessary to carry out the purposes of this section, shall be those procedures provided for by the Department of Corrections and Rehabilitation for serious disciplinary infractions if those procedures are not in conflict with this section.
- (1) (A) The Department of Corrections and Rehabilitation shall, using reasonable diligence to investigate, provide written notice to the prisoner. The written notice shall be given within 15 days after the discovery of information leading to charges that may result in a possible denial of credit, except that if the prisoner has escaped, the notice shall be given within 15 days of the prisoner's return to the custody of the secretary. The written notice shall include the specific charge, the date, the time, the place that the alleged misbehavior took place, the evidence relied upon, a written explanation of the procedures that will be employed at the proceedings and the prisoner's rights at the hearing. The hearing shall be conducted by an individual who shall be independent of the case and shall take place within 30 days of the written notice.
- (B) The Department of Corrections and Rehabilitation may delay written notice beyond 15 days when all of the following factors are true:
- (i) An act of misconduct is involved which could be prosecuted as murder, attempted murder, or assault on a prison employee, whether or not prosecution is undertaken.
- (ii) Further investigation is being undertaken for the purpose of identifying other prisoners involved in the misconduct.
- (iii) Within 15 days after the discovery of information leading to charges that may result in a possible denial of credit, the investigating officer makes a written request to delay notifying that prisoner and states the reasons for the delay.
- (iv) The warden of the institution approves of the delay in writing.
- The period of delay under this paragraph shall not exceed 30 days. The prisoner's hearing shall take place within 30 days of the written notice.

SB 892 — 18—

(2) The prisoner may elect to be assigned an employee to assist in the investigation, preparation, or presentation of a defense at the disciplinary hearing if it is determined by the department that either of the following circumstances exist:

- (A) The prisoner is illiterate.
- (B) The complexity of the issues or the prisoner's confinement status makes it unlikely that the prisoner can collect and present the evidence necessary for an adequate comprehension of the case.
- (3) The prisoner may request witnesses to attend the hearing and they shall be called unless the person conducting the hearing has specific reasons to deny this request. The specific reasons shall be set forth in writing and a copy of the document shall be presented to the prisoner.
- (4) The prisoner has the right, under the direction of the person conducting the hearing, to question all witnesses.
- (5) At the conclusion of the hearing the charge shall be dismissed if the facts do not support the charge, or the prisoner may be found guilty on the basis of a preponderance of the evidence.
- (d) If found guilty the prisoner shall be advised in writing of the guilty finding and the specific evidence relied upon to reach this conclusion and the amount of time-credit loss. The prisoner may appeal the decision through the department's review procedure, and may, upon final notification of appeal denial, within 15 days of the notification demand review of the department's denial of credit to the Board of Parole Hearings, and the board may affirm, reverse, or modify the department's decision or grant a hearing before the board at which hearing the prisoner shall have the rights specified in Section 3041.5.
- (e) Each prisoner subject to Section 2931 shall be notified of the total amount of good behavior and participation credit which may be credited pursuant to Section 2931, and his or her anticipated time-credit release date. The prisoner shall be notified of any change in the anticipated release date due to denial or loss of credits, award of worktime credit, under Section 2933, or the restoration of any credits previously forfeited.
- (f) (1) If the conduct the prisoner is charged with also constitutes a crime, the department may refer the case to criminal authorities for possible prosecution. The department shall notify

-19- SB 892

the prisoner, who may request postponement of the disciplinary proceedings pending the referral.

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- (2) The prisoner may revoke his or her request for postponement of the disciplinary proceedings up until the filing of the accusatory pleading. In the event of the revocation of the request for postponement of the proceeding, the department shall hold the hearing within 30 days of the revocation.
- (3) Notwithstanding the notification requirements in this paragraph and subparagraphs (A) and (B) of paragraph (1) of subdivision (c), in the event the case is referred to criminal authorities for prosecution and the authority requests that the prisoner not be notified so as to protect the confidentiality of its investigation, no notice to the prisoner shall be required until an accusatory pleading is filed with the court, or the authority notifies the warden, in writing, that it will not prosecute or it authorizes the notification of the prisoner. The notice exceptions provided for in this paragraph shall only apply if the criminal authority requests of the warden, in writing, and within the 15 days provided in subparagraph (A) of paragraph (1) of subdivision (c), that the prisoner not be notified. Any period of delay of notice to the prisoner shall not exceed 30 days beyond the 15 days referred to in subdivision (c). In the event that no prosecution is undertaken, the procedures in subdivision (c) shall apply, and the time periods set forth in that subdivision shall commence to run from the date the warden is notified in writing of the decision not to prosecute. In the event the authority either cancels its requests that the prisoner not be notified before it makes a decision on prosecution or files an accusatory pleading, the provisions of this paragraph shall apply as if no request had been received, beginning from the date of the cancellation or filing.
- (4) In the case where the prisoner is prosecuted by the district attorney, the Department of Corrections and Rehabilitation shall not deny time credit where the prisoner is found not guilty and may deny credit if the prisoner is found guilty, in which case the procedures in subdivision (c) shall not apply.
- (g) If time credit denial proceedings or criminal prosecution prohibit the release of a prisoner who would have otherwise been released, and the prisoner is found not guilty of the alleged misconduct, the amount of time spent incarcerated, in excess of

SB 892 — 20 —

what the period of incarceration would have been absent the alleged misbehavior, shall be deducted from the prisoner's parole period.

- (h) Nothing in the amendments to this section made at the 1981–82 Regular Session of the Legislature shall affect the granting or revocation of credits attributable to that portion of the prisoner's sentence served prior to January 1, 1983.
- SEC. 5. Section 2933.6 of the Penal Code is amended to read: 2933.6. (a) Notwithstanding any other law, a person who is placed in a Security Housing Unit, Psychiatric Services Unit, Behavioral Management Unit, or an Administrative Segregation Unit for misconduct described in subdivision (b) or upon validation as a prison gang member or associate is ineligible to earn credits pursuant to Section 2933 or 2933.05 during the time he or she is in the Security Housing Unit, Psychiatric Services Unit, Behavioral Management Unit, or the Administrative Segregation Unit for that misconduct.
- (b) This section applies to the following offenses:
- (1) Murder, attempted murder, and solicitation of murder. For purposes of this paragraph, solicitation of murder shall be proven by the testimony of two witnesses, or of one witness and corroborating circumstances.
- (2) Manslaughter.
 - (3) Assault or battery causing serious bodily injury.
- (4) Assault or battery on a peace officer or other nonprisoner which results in physical injury.
 - (5) Assault with a deadly weapon or caustic substance.
- (6) Rape, attempted rape, sodomy, attempted sodomy, oral copulation, or attempted oral copulation accomplished against the victim's will.
- 30 (7) Taking a hostage.
 - (8) Escape or attempted escape with force or violence.
 - (9) Escape from any departmental prison or institution other than a camp or reentry facility.
- 34 (10) Possession or manufacture of a deadly weapon or explosive device.
 - (11) Arson involving damage to a structure.
- 37 (12) Possession of flammable, explosive material with intent to 38 burn any structure or property.

—21— SB 892

(13) Solicitation of assault with a deadly weapon or assault by means of force likely to produce great bodily injury, arson, or a forcible sex act.

- (14) Intentional destruction of state property in excess of four hundred dollars (\$400) during a riot or disturbance.
- (c) This section does not apply if the administrative finding of the misconduct is overturned or if the person is criminally prosecuted for the misconduct and is found not guilty.
- (d) This section does not apply during any period during which an offender in the Security Housing Unit has remained free of disciplinary action for six consecutive months.
 - SEC. 6. Section 6126 of the Penal Code is amended to read:
- 6126. (a) The Inspector General shall be responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process of the Department of Corrections and Rehabilitation, pursuant to Section 6133 under policies to be developed by the Inspector General.
- (b) When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Inspector General shall review policies, practices, and procedures of the department. The Inspector General, under policies developed by the Inspector General, may recommend that the Governor, the Senate Committee on Rules, or the Speaker of the Assembly request a review of a specific departmental policy, practice, or procedure that raises a significant correctional issue relevant to the effectiveness of the department. When exigent circumstances of unsafe or life threatening situations arise involving inmates, wards, parolees, or staff, the Inspector General may, by whatever means is most expeditious, notify the Governor, Senate Committee on Rules, or the Speaker of the Assembly.
- (c) (1) Upon completion of a review, the Inspector General shall prepare a complete written report, which shall be held as confidential and disclosed in confidence, along with all underlying materials the Inspector General deems appropriate, to the requesting entity in subdivision (b) and the appropriate law enforcement agency.
- (2) The Inspector General shall also prepare a public report. When necessary, the public report shall differ from the complete written report in the respect that the Inspector General shall have the discretion to redact or otherwise protect the names of

SB 892 — 22 —

individuals, specific locations, or other facts that, if not redacted, might hinder prosecution related to the review, or where disclosure of the information is otherwise prohibited by law, and to decline to produce any of the underlying materials. Copies of public reports shall be posted on the Office of the Inspector General's Internet Web site.

- (d) The Inspector General shall, during the course of a review, identify areas of full and partial compliance, or noncompliance, with departmental policies and procedures, specify deficiencies in the completion and documentation of processes, and recommend corrective actions, including, but not limited to, additional training, additional policies, or changes in policy, as well as any other findings or recommendations that the Inspector General deems appropriate.
- (e) The Inspector General, pursuant to Section 6126.6, shall review the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions and as superintendents for the state's juvenile facilities.
- (f) The Inspector General shall conduct an objective, clinically appropriate, and metric-oriented medical inspection program to periodically review delivery of medical care at each state prison.
- (g) The Inspector General shall conduct an objective, metric-oriented oversight and inspection program to periodically review delivery of the reforms identified in the document released by the Department of Corrections and Rehabilitation in April 2012, entitled The Future of California Corrections: A Blueprint to Save Billions of Dollars, End Federal Court Oversight, and Improve the Prison System (the blueprint), including, but not limited to, the following specific goals and reforms described by the blueprint:
- (1) Whether the department has increased the percentage of inmates served in rehabilitative programs to 70 percent of the department's target population prior to their release.
- (2) The establishment of an adherence to the standardized staffing model at each institution.
- (3) The establishment of an adherence to the new inmate classification score system.
- (4) The establishment of and adherence to the new prison gang management system, including changes to the department's current policies for identifying prison-based gang members and associates

23 SB 892

and the use and conditions associated with the department's security housing units.

- (5) The implementation of and adherence to the Comprehensive Housing Plan described in the blueprint.
- (h) The Inspector General shall, in consultation with the Department of Finance, develop a methodology for producing a workload budget to be used for annually adjusting the budget of the Office of the Inspector General, beginning with the budget for the 2005–06 fiscal year.
- (i) The Inspector General shall employ two secured housing specialists for each *institution that has a* Security Housing Unit and *or* Psychiatric Services Unit. The secured housing specialists shall monitor the programming and conditions of those security housing units, in addition to assuming any related duties determined by the Inspector General.